

Dependent Day Care FSA Contributions

Although the **Dependent Day Care FSA** may be continued during a period of unpaid leave, expenses incurred during the leave may not be reimbursable. Dependent care expenses are not "eligible expenses" unless they are employment-related, in other words, they enable the employee and spouse to be gainfully employed. See Code §21(b)(2) and Code §129.

See "Payment Options for Unpaid Leave."

Family Medical Leave - If an employee does not choose to continue his/her participation during a period of unpaid FMLA leave, the employee may suspend participation for the period of the leave or cancel his/her coverage for the balance of the plan year. The employee is entitled to reinstate coverage following a period of FMLA leave effective the first day of the month following his/her return. If contributions are not continued during the leave, expenses incurred during the leave cannot be reimbursed.

Persons returning from FMLA leave have two options for reinstating coverage if their contributions were not continued during the period of leave: a) the annual election in place prior to the leave may be reinstated and monthly contributions increased accordingly, or b) the annual election may be reduced to the level needed to keep the monthly contributions at the level in place prior to the leave.

Except as permitted above for FMLA leave, a Participant cannot change his/her annual election unless another exception to the irrevocability rules applies.

Non-FMLA Leaves of Absence - If an employee goes on unpaid leave of absence that does not affect eligibility, the employee will continue to participate and the premiums will be paid by pre-payment before going on leave, after-tax contributions while on leave, or with catch-up contributions after the leave ends.

Important: A Participant cannot change his/her annual election unless another exception to the irrevocability rules applies. For example: If a participant doesn't need daycare services to enable gainful employment during a period of unpaid leave (including but not limited to disability leave and leave without pay), an election change may be justified under the exception for "significant curtailment of coverage" - see #3 in the Exceptions to the irrevocability rules.

Health Care FSA Contributions

Participation in the Health Care FSA may be continued during a period of unpaid leave as follows:

Family Medical Leave - If an employee does not choose to continue his/her participation during a period of unpaid FMLA leave, the employee may suspend participation for the period of the leave or cancel his/her coverage for the balance of the plan year. The employee is entitled to reinstate coverage following a period of FMLA leave effective the first day of the month following his/her return. If contributions are not continued during the leave, expenses incurred during the leave cannot be reimbursed.

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Non-FMLA Leaves of Absence - If an employee goes on unpaid leave of absence that does not affect eligibility, the employee will continue to participate and the premiums will be paid by pre-payment before going on leave, after-tax contributions while on leave, or with catch-up contributions after the leave ends.

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Payment Options for Unpaid Leave

When you are notified that an employee is going on any unpaid leave, you must notify the employee of the following options:

- A. The total of the regular monthly/biweekly FSA deductions covering the period of any unpaid leave may be deducted pre-tax from the last check prior to the unpaid leave.

Payroll Procedure: If the employee elects to have the lump sum deduction taken pre-tax from the last check, calculate the amount by multiplying the current deduction times the number of months the employee will be on any unpaid leave and enter this amount as a one-time deduction on the 247 GTN.

OR

- B. A personal check may be submitted monthly to continue the plan. Personal checks are on an after-tax basis.

Payroll Procedure: If the employee wishes to continue making the payments on an after-tax basis, they must provide you with a personal check for the FSA. This payment must be included with the monthly payment for medical, dental, and life premiums by the 1st of each month.

You must complete an IGPV for the FSA amount and send to CPPS.

The check is deposited by the agency the same as any other payment for benefits.

OR

- C. Participation may be suspended or cancelled only if the leave is under the FMLA. If contributions are discontinued, the carrier will use the last day of the month in which the last contribution was deducted as the cancellation date. All claims for reimbursement must be for services provided before this cancellation date. This means that if an employee had contributed money to their account before cancellation, but did not incur any expenses until after the cancellation date, they would not be reimbursed the account balance and the funds would be forfeited at year end.

Except as provided above, employees returning to work from FMLA leave within the same plan year must be reinstated at the same **annual** contribution in effect immediately prior to the leave, unless there was an intervening status change. The monthly contribution required after reinstatement is calculated by subtracting the year-to-date contributions from the annual election, then dividing by the number of months remaining in the plan year.

If the employee does not maintain coverage during the leave, he/she will not be able to file claims for expenses incurred during the leave. However, the annual election amount will remain the same.

If the employee elects to cease making the contributions upon returning from an FMLA leave, you must remove the 247 GTN and amount from the screen. The employee must complete a new Change of Election / Flexible Spending Accounts form changing the annual contribution to the amount contributed year to date and indicate the reason for the change.

ILLUSTRATION: Jane D. elects to contribute \$1200 to her Health Care FSA account effective the first of the year. During the plan year she takes unpaid, FMLA leave from May 14 through September 6. The contribution for May is deducted from Jane's check the end of May.

Although Jane is given the opportunity to pre-pay contributions by deducting an extra \$300 from her paycheck in May, or to make after-tax contributions during the period of leave, she decides to suspend contributions instead. When Jane returns to work in September, her coverage is reinstated effective October 1 and her monthly contribution for the balance of the year will be calculated as follows:

Annual Election (\$1200) minus contributions Year to Date (\$500) divided by the number of pay periods remaining in the Plan Year (3) equals the new monthly contribution (\$233.33).

Since expenses are not reimbursable for any month in which a contribution is not paid (or pre-paid), Jane would not be reimbursed for medical expenses incurred in June, July, August or September. .

If Jane pre-paid contributions, or made monthly contribution during the period of leave, she could be reimbursed for medical expenses incurred during the period of leave.

Alternatively, upon her return from FMLA leave, Jane may elect to reduce her annual contribution to \$800 effective October 1, in which case her \$100 monthly contributions would resume with the October paycheck. The new annual election would be calculated as follows:

Contributions paid year-to-date (\$500) plus the original monthly contribution (\$100) times the number of pay periods remaining in the Plan Year starting with first full month following the employee's return to work (3) equals the new annual election (\$800).